Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Interconnection between Local	)	CC Docket No. 95-185
Exchange Carriers and Commercial	)	
Mobile Radio Service Providers	)	

COMMENTS OF GTE

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on behalf of its affiliated telephone and
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SUMMARY

GTE believes that the NPRM is fundamentally inconsistent with the Telecommunications Act of 1996 ("the 1996 Act") which sets forth a new legal regime that governs LEC-CMRS interconnection. The language of the new law is all-encompassing, mandating direct or indirect interconnection for all telecommunications carriers. The statute does not anticipate a different interconnection treatment for CMRS or exclude LEC-CMRS interconnection arrangements from the scope of the interconnection requirements and the statutory voluntary negotiation, mediation and arbitration mechanism.

For its part the Commission must adopt flexible policies which permit the negotiation process afforded under the statute and which are consistent with the legislative interconnection mandates. GTE believes that all interconnection agreements ultimately should be negotiated within the context of a rational pricing structure, one which permits every carrier to recover the costs of terminating traffic from the parties which originate it while sending the right economic pricing signals to a competitive market. In such a context, no longer would the classification of a carrier or the jurisdiction of a minute of use matter, as under today's regulations. Rational pricing must be pursued in federal and state jurisdictions and throughout the telecommunications markets, not merely for one set of providers or interconnectors - as this proceeding seems to imply.

The Commission must ensure that its interconnection policies anticipate and are consistent with the broader and more far-reaching changes to its common carrier regulation that the Commission must implement as a result of the legislation, including

those that involve universal service and access reform. The Commission should terminate this narrowly focused proceeding or should consider LEC-CMRS interconnection with the broader and more far-reaching changes to its common carrier regulation that the Commission must implement as a result of the legislation, including those that involve universal service and access reform.

To address only LEC-CMRS interconnection is, at best, to delay beneficial interconnection policies and, at worst, to set in place a form of asymmetrical regulation that will haunt the industry for many years to come. It is unlikely that any minor benefit to this small but growing portion of the public switched network can justify the damage to the Commission's long standing policies of regulatory parity and overall fairness that this instant proceeding is capable of inflicting.

A Commission rule mandating Bill and Keep arrangements for LEC-CMRS interconnected traffic would run roughshod over the new legal regime created by Congress in the 1996 Act. Contrary to the express terms of the Act, interconnecting carriers would not have broad leeway to craft their own compensation arrangements. Nor would the state commissions be able to exercise their authority under the Act to approve a wide range of such arrangements. Because Commission rules cannot contravene the statute that the Commission is charged to implement, the Bill and Keep rule that the Commission is proposing is beyond its authority.

Mandating a Bill and Keep arrangement, even for an interim period, could have a significant impact on other FCC policies and cause great harm to the existing interconnection arrangements. GTE urges the Commission to avoid this ad hoc

approach, especially in light of the broad, far-reaching changes to common carrier regulation the Commission will implement as a result of the 1996 Act.

In these Comments, GTE analyzes the requirements of the Telecommunications Act of 1996 and suggests how the Commission should proceed in its investigation into interconnection issues. In response to specific issues raised in this proceeding, GTE describes the interconnection arrangements which the GTE telephone operating companies have negotiated and suggests the sort of arrangements and guidelines which the Commission should adopt in implementing the legislation.

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Interconnection between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	CC Docket No. 95-185

COMMENTS OF GTE

GTE Service Corporation, on behalf of its telephone and wireless companies (collectively "GTE") respectfully submit these Comments in response to the Notice of Proposed Rulemaking ("Notice" or "NPRM") in the above-captioned matter.[1] The Notice proposes policies and rules for interconnection between Local Exchange Carriers ("LECs") and Commercial Mobile Radio Service ("CMRS") providers.

BACKGROUND

The FCC has long required LECs to interconnect with wireless carriers.[2] As part of this duty, LECs have been required to negotiate in good faith, to provide reasonable interconnection at just and reasonable rates. Under this policy, LECs and wireless carriers have negotiated interconnection agreements and/or tariffs and wireless carriers

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1 FCC 95-505, released January 11, 1996. *See also Order and Supplemental Notice of Proposed Rulemaking*, FCC 96-61, released February 16, 1996.

2 *The Need to Promote Competition and Efficient Use of Spectrum for Radio Common Carrier Services, Memorandum Opinion and Order*, 59 RR 2d 1275, 1283 (App. B) (1986), *clarified, Declaratory Ruling*, 2 FCC Rcd 2910 (1987), *aff'd on recon.*, 4 FCC Rcd 2369 (1989).

have obtained the type of interconnection needed to significantly expand their presence in the last decade.[3] Despite the relative success of this policy of good faith negotiations, the Notice suggests that the current policy may not do enough to encourage the development of CMRS. The Commission (at 14) concludes that "[w]ith the growing significance of interconnection and competition in today's telecommunications environment, we believe that a reexamination of our policies addressing compensation arrangements for LEC-CMRS interconnection is essential."

After the Notice was released, Congress passed the Telecommunications Act of 1996 ("the 1996 Act")[4] to provide a pro-competitive, de-regulatory national policy to advance telecommunications. Congress gave emphatic direction to government and industry that a fresh approach is to be taken to the challenges presented by the current and future competitive environment. Congress established an interconnection policy imposing on each telecommunications carrier the obligation to interconnect directly or

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[3] The record in CC Docket No. 94-54 is replete with comments endorsing the Commission's good faith negotiation policy. *See, e.g.*, Comments of OneComm Corporation at 20 ("OneComm has enjoyed favorable results overall negotiating interconnection agreements with LECs."); Comments of Cellular Telecommunications Industry Assoc. at 18 ("Most LECs and cellular carriers are satisfied with the current negotiation process for interconnection with the public switched network, and find that the process generally produces fair and nondiscriminatory interconnection arrangements. This is due, in large part, to the fact that the CMRS market comprises sophisticated buyers of access services with sufficient information and expertise to negotiate equitable interconnection arrangements."); Comments of Vanguard Cellular Systems, Inc. at 21 ("LECs and cellular carriers now have significant experience negotiating interconnection agreements, and Vanguard agrees that this process generally has resulted in lower rate levels than tariffing would have produced, given the administrative, time and other costs that attend the tariffing process.")

[4] Pub. L. No. 104-104, 110 Stat. 56 (1996).

indirectly with "other telecommunications carriers," provided certain specific interconnection requirements for LECs and specified a mechanism for implementing LEC interconnection ranging from voluntary negotiation to arbitration by the state commission to implement interconnection agreements, and providing for approval by the state commission. 47 U.S.C. §§251-252. The FCC's statutory role is clear: within six months of enactment, the FCC must establish regulations concerning the requirements of Section 251. The language of the new law is all-encompassing, mandating direct or indirect interconnection for all telecommunications carriers. The statute does not anticipate a different interconnection treatment for CMRS or exclude LEC-CMRS interconnection arrangements from the scope of the interconnection requirements and the statutory voluntary negotiation, mediation and arbitration mechanism.

I. GENERAL

A new era in federal regulation commenced with the passage of the 1996 Act and the Commission needs to review its interconnection policies in light of this recently enacted legislation. While GTE believes the Commission has in this proposed rulemaking over-reached in many of its tentative conclusions, given specific provisions of the statute, the Commission is right to begin to examine its policies in light of this legislation. However, as the Commission develops its interconnection policies, it must ensure those policies anticipate and are consistent with the broader and more far-reaching changes to its common carrier regulation that the Commission must implement as a result of the legislation, including those that involve universal service and access reform.

Simply stated, LEC-CMRS interconnection policy cannot, under the statute, and should not, as a matter of policy, be developed in isolation. LECs must be prepared to interconnect and negotiate with "any telecommunications carrier."[5] For its part the Commission must adopt flexible policies which permit the negotiation process afforded under the statute and which are consistent with the legislative interconnection mandates.

GTE believes that all interconnection agreements ultimately should be negotiated within the context of a rational pricing structure, one which permits every carrier to recover the costs of terminating traffic from the parties which originate it while

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[5] As a provider of "telecommunications services," a CMRS provider is clearly a "telecommunications carrier" within the meaning of the 1996 Act. *See* 47 U.S.C. §153(49), (51). *See* further discussion at 11 *infra*.

sending the right economic pricing signals to a competitive market. In such a context, no longer would the classification of a carrier or the jurisdiction of a minute of use matter, as under today's regulations where some parties receive service for flat rates, others on a measured basis, and - now with the Commission's Bill and Keep proposal - others arguably for free. Rational pricing must be pursued in federal and state jurisdictions and throughout the telecommunications markets, not merely for one set of providers or interconnectors - as this proceeding seems to imply.

There is no need, as the NPRM suggests, to single out one group for special treatment to ensure their continued development. Cellular providers and paging companies have enjoyed phenomenal growth. The current interconnection arrangements have not stunted the growth of wireless services nor will mandating a Bill and Keep compensation arrangement significantly benefit these services. Interconnection costs are only a small component of the total costs of providing a wireless service. However, mandating a Bill and Keep arrangement, even for an interim period, could have a significant impact on other FCC policies and cause great harm to the existing interconnection arrangements. GTE urges the Commission to avoid this ad hoc approach, especially in light of the broad, far-reaching changes to common carrier regulation the Commission will implement as a result of the 1996 Act.

In its Comments, GTE analyzes the requirements of the Telecommunications Act of 1996 and suggests how the Commission should proceed in its investigation into interconnection issues. In response to specific issues raised in this proceeding, GTE describes the interconnection arrangements which the GTE telephone operating

companies have negotiated and suggests the sort of arrangements and guidelines which the Commission should adopt in implementing the legislation.

A. The Commission's proposed rules conflict with the Telecommunications Act of 1996.

The Commission's Notice is fundamentally inconsistent with the recently enacted Telecommunications Act of 1996. The 1996 Act sets forth a new legal regime that governs LEC-CMRS interconnection. The Commission's proposal to mandate a Bill and Keep arrangement for interconnected traffic is incompatible with that regime and is therefore beyond the Commission's jurisdiction. Accordingly, the Commission should terminate this narrowly focused proceeding or should consider LEC-CMRS interconnection within the context of, and subject to the substantive restrictions on, a proceeding implemented pursuant to new Section 251(d)(1).

1. Under the 1996 Act, LEC interconnection arrangements are to be determined by agreement, not mandated by the Commission.

In new Sections 251 and 252 of Title 47, the 1996 Act sets forth an array of provisions that govern interconnection arrangements between LECs and other telecommunications carriers, including CMRS providers. A hallmark of this new legal regime is that interconnection arrangements between carriers are to be negotiated and determined by agreement, not mandated by the Commission.

Sections 251(c)(1) and (2) provide that an incumbent LEC has the duty to negotiate in good faith for agreements to interconnect its network with "the facilities and equipment of any requesting telecommunications carrier." These sections likewise impose on the "requesting telecommunications carrier . . . the duty to negotiate in good faith the terms and conditions of such agreements." Significantly, although Sections 251(b) and (c) set forth various duties of incumbent LECs, the 1996 Act expressly provides that an incumbent LEC "may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers *without regard to the standards set forth in sections (b) and (c) of section 251*."[6] In short, the parties to an interconnection agreement are free to override the statutory duties placed on incumbent LECs under Sections 251(b) and (c). There could hardly be any clearer proof that privately negotiated arrangements lie at the heart of the 1996 Act's interconnection regime.

Section 252 elaborately details and delimits the role of state commissions and this Commission with regard to interconnection agreements. Interconnection agreements are to be submitted for approval to the state commission. Agreements reached voluntarily may be rejected by the state commission only if they discriminate against a non-party or are inconsistent with the public interest. Agreements arrived at through compulsory arbitration may be rejected only if they do not meet the requirements of section 251 or of the pricing standards set forth in section 252(d).[7]

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[6] 47 U.S.C. §252(a)(1)(emphasis added).

[7] 47 U.S.C. §252(e).

Notably, this Commission has no role in the approval or rejection of interconnection agreements unless the state commission fails to carry out its responsibilities. Even then, this Commission's role is limited to carrying out the state commission's responsibilities.[8] While Section 251(d) authorizes this Commission "to establish regulations to implement the requirements of" section 251, such regulations must, of course, be consistent with the terms of section 251.

The specific provisions in the 1996 Act concerning compensation arrangements for the transport and termination of telecommunications incident to LEC-CMRS interconnection reaffirm the primacy of private agreements. Far from mandating any particular terms of compensation, the 1996 Act leaves it to the parties to negotiate those terms. Section 251(b)(5) places on the incumbent LEC only a general "duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications." Section 251(c)(1) imposes on both the incumbent LEC and the CMRS provider (as the "requesting telecommunications carrier") the duty to negotiate in good faith regarding these reciprocal compensation arrangements. In short, Section 251 does not at all mandate the substance of these reciprocal compensation arrangements (and, of course, even if it did, the parties would be free under Section 252(a)(1) to enter into agreements "without regard to" such mandate). Likewise, any Commission regulations pursuant to Section 251(d) must respect the parties' right to negotiate mutually agreeable reciprocal compensation arrangements.

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[8] 47 U.S.C. §252(e)(5).

There is, to be sure, one provision in the 1996 Act -- section 252(d)(2) -- that contemplates an agency role in reviewing these compensation arrangements: (1) the agency that has a role is the state commission, not this Commission; (2) the role is to review agreements -- not to mandate general terms; (3) the role comes into play, under section 252(e)(2), only when the state commission has arbitrated an agreement, not when an agreement has been voluntarily reached; (4) the role recognizes that parties have leeway to enter into a broad range of reciprocal compensation agreements.

Specifically, Section 252(d)(2) provides only that a state commission shall not consider terms and conditions for reciprocal compensation to be just and reasonable unless they (i) provide for the mutual and reciprocal recovery of costs associated with the transport and termination of calls that originate on the other carrier's network, and (ii) determine such costs on the basis of a reasonable approximation of the additional costs of terminating such calls. Section 252(d)(2)(B) further provides that this provision should not be construed to "preclude . . . arrangements that waive mutual recovery (such as bill-and-keep arrangements)." In other words, under section 252(d)(2), parties are free to enter into, and the state commission is authorized to approve, a broad range of compensation arrangements, including, but in no way limited to, Bill and Keep. Thus, Section 252(d)(2) establishes only that a state commission may approve an agreement that contains a Bill and Keep arrangement. It provides no warrant for this Commission to mandate Bill and Keep.

2. A Commission rule mandating Bill and Keep arrangements would violate the 1996 Act.

A Commission rule mandating Bill and Keep arrangements for LEC-CMRS interconnected traffic would run roughshod over the new legal regime created by Congress in the 1996 Act. Contrary to the express terms of the Act, interconnecting carriers would not have broad leeway to craft their own compensation arrangements. Nor would the state commissions be able to exercise their authority under the Act to approve a wide range of such arrangements. Oddly, whereas Congress, in Section 252(d)(2), specifically regarded Bill and Keep as just one of many arrangements that state commissions could approve, a Bill and Keep rule from this Commission would purport to make Bill and Keep the only acceptable arrangement.

Because Commission rules cannot contravene the statute that the Commission is charged to implement, the Bill and Keep rule that the Commission is proposing is beyond its authority whether under section 251(d)(1) or under any other provision of law.

3. Mandatory Bill and Keep cannot be separately justified under section 332(c).

Now that the 1996 Act has become law, the question of whether Section 332(c) preempts state regulation of LEC-CMRS interconnection is largely beside the point. The important question is not how Section 332(c) interacts with state law, but how it interacts with the 1996 Act. Specifically, are CMRS providers to be treated differently

from other "requesting telecommunications carriers" for purposes of new sections 251 and 252? The answer is clearly no.

In the first place, CMRS providers that make requests of incumbent LECs clearly are "requesting telecommunications carriers." As defined in the 1996 Act, "Telecommunications":

> means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.[9]

"Telecommunications service"

> means the offering of telecommunications for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.[10]

"Telecommunications carrier"

> means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (as defined in section 226). A telecommunications carrier shall be treated as a common carrier under this Act only to the extent that it is engaged in providing telecommunications services, except that the Commission shall determine whether the provision of fixed and mobile satellite service shall be treated as common carriage.[11]

CMRS fits squarely within these definitions. CMRS is a "telecommunications service," and CMRS providers are, therefore, "telecommunications carriers." Nothing in Section

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9 47 U.S.C. §153(48).

10 47 U.S.C. §153(51).

11 47 U.S.C. §153(49).

251 or 252 limits the application of these sections to CMRS providers in their capacity as requesting telecommunications carriers.

Second, where Congress has intended for the 1996 Act not to override Section 332(c), it has said so clearly and expressly. For example: (1) CMRS providers are specifically excluded from the definition of "local exchange carrier" in new Section 153(44), and therefore do not have any of the duties that non-incumbent LECs have under Section 251(b). (2) Section 253(e) states that Section 253 (removal of state barriers to entry) does not "affect the application of Section 332(c)(3) to commercial mobile service providers." Moreover, the 1996 Act amends Section 332(c) by adding two new paragraphs[12] and refers specifically to section 332(c) on other occasions.[13] In short, in crafting the 1996 Act, Congress was fully aware of section 332(c), and it created express exceptions for CMRS providers when it intended to do so.

Third, there is no reason to treat CMRS providers differently from other requesting telecommunications carriers. A basic purpose of the 1996 Act is to eliminate disparate regulatory treatment. This purpose would be disserved by a ruling that section 332(c) somehow limits the scope of sections 251 and 252.

Accordingly, the Commission's proposal to mandate a Bill and Keep LEC-CMRS interconnection policy is beyond the Commission's jurisdiction. The Commission should include LEC-CMRS interconnection within the context of, and subject to the substantive restrictions on, a proceeding implemented pursuant to new Section 251(d)(1).

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12 *See* §§704 and 705 of the 1996 Act, adding ¶¶(7) and (8) to Section 332(c).

13 *See, e.g.,* §271(g)(3), 10(a).

4. A Commission rule mandating Bill and Keep arrangement would violate the Takings Clause of the United States Constitution.

By presuming to mandate a Bill and Keep compensation arrangement, the Commission turns not only established history and the new Act on its head, but also violates the Fifth Amendment by requiring interconnection -- physical occupation and use -- of the LEC's network without just compensation.

There can be no doubt that mandated interconnection is physical occupation of the LEC's network. Mandatory interconnection involves not only *interconnection with*, but *carriage upon*, the existing LEC network. Thus, there is the *physical taking* of an incumbent LEC's property by CMRS providers being granted mandatory access to, and carriage over, LEC (limited capacity) closed transmission paths.[14] By governmental fiat, the incumbent LEC has no alternative but to open its network to *use* by another carrier. The other carrier's signals are transmitted *on* the LEC's network. These signals *physically occupy* the LEC's network in the same manner that a property owner having an easement for ingress and egress may physically occupy the drivepath of an adjacent property owner in order traverse the space from his home to a public roadway. In each instance, the servient tenement -- be it adjacent property owner or LEC -- must be (or heretofore has been) compensated.

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[14] Mandatory interconnection also permits CMRS carriers mandatory access to LEC rights-of-way.

Under Fifth Amendment jurisprudence, physical occupation constitutes a *per se* taking. "[A] permanent physical occupation authorized by government is a taking without regard to the public interest that it may serve."[15] Mandatory interconnection falls squarely within this *per se* rule. Therefore, the LEC must receive *just* compensation.

The Commission's proposed Bill and Keep arrangement provides for no *just* compensation. Indeed, whether an incumbent LEC will receive anything at all is a matter of speculation having no basis in fact. As Section 252 of the 1996 Act makes clear, in interconnection situations there should be "mutual and reciprocal recovery of costs" which are determined "on the basis of a reasonable approximation of the additional costs of terminating [the] calls." Under the proposed Bill and Keep arrangement, there is neither "mutual and reciprocal recovery of costs" nor even reasonable (as opposed to speculative) approximation of additional cost. Thus, even if the Commission had jurisdiction to mandate an interconnection compensation scheme under the 1996 Act -- which it does not -- Bill and Keep would not meet the test of Section 252 let alone the just compensation requirement of the Takings Clause of the Fifth Amendment.

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[15] *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 427 (1982). In Loretto, the Court referred to cable system infrastructure (*i.e.*, "closed transmission paths", *see* definition at 47 U.S.C. § 522(7)) as a "cable 'highway'" which had been invaded. In the same manner, the incumbent LEC's networks are invaded through mandatory interconnection and carriage of CMRS signals.

B. Sound Policy

Even apart from the question of Congressional intent, sound administration and policy dictate treating CMRS providers the same way as other interconnectors that obtain essentially the same LEC services under essentially the same circumstances. The NPRM makes no effort to look at CMRS interconnection as a matter interrelated with interconnection of other parties; and it fails to set out broad guiding principles that address the complete consequences of any decision.

The principle of cost causation should apply to CMRS providers as all others. The burdens of maintaining universal service should be borne by CMRS providers as all others -- for they benefit when their customers are called by LEC customers, and when their customers are able to reach parties in remote locations through the LEC network. The principle of competitive neutrality should govern the LEC-CMRS relationship as all others. Rational pricing must be pursued for all interconnection. These overriding issues should be considered together in the same proceeding, rather than being split off into a narrow proceeding designed to further the interests of one particular set of parties.

As a consequence of this analysis, GTE urges the Commission (i) to terminate this narrowly focused LEC-CMRS interconnection proceeding grounded on an understanding of the Commission's role vis-a-vis interconnection that has been superseded by the 1996 Act; or, (ii) to roll this proceeding into the broader interconnection proceeding which implements the provisions of Sections 251 and 252.

II. Compensation for Interconnected Traffic between LECs and CMRS Providers' Networks

At the outset, the NPRM concludes that a Bill and Keep approach should be applied to LEC-CMRS interconnection. The Commission seeks comments on whether this approach should be a non-binding model for the state regulators or mandated by the Commission. Based upon its experience both as a LEC and CMRS provider, GTE addresses this issue of compensation arrangements and urges the Commission to avoid a mandated solution, and instead, to adopt a policy on the basis of flexibility, rational pricing and voluntary negotiations.

A. Compensation Arrangements

To assist in developing its interconnection policy, the Commission has asked the parties to address existing LEC-CMRS compensation arrangements. GTE's preferred method of interconnection, both as a LEC and as a CMRS provider, is through good faith negotiations. It has been GTE's experience that contracts resulting from good faith negotiations offer the CMRS providers the "best fit" in terms of interconnection design and overall control of the end product. GTE is not alone in this preference,

which was endorsed by the majority of commenters in CC Docket No. 94-54.[16] The wide range of support for negotiated contracts[17] in place of mandated tariffs attests to the fact that good faith negotiations work well for both parties involved.[18]

In keeping with good faith negotiations, GTE offers basic interconnection arrangements to all CMRS providers.[19] GTE also has developed customized arrangements through negotiations with the carriers, on a market by market basis. These customized arrangements are offered to all similarly situated CMRS providers in that market. Contrary to the view expressed in the NPRM (at ¶12), new CMRS providers would benefit from deals negotiated by the preceding CMRS providers

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16 While parties may differ on specific compensation requirements, there appears to be broad agreement that flexible negotiated contracts are superior to rigid tariff requirements. *See, e.g.*, Comments of Personal Communications Industry Association at 11 ("Obligatory federal tariffing of LEC/CMRS interconnection raises significant concerns."); Comments of McCaw Cellular Communications, Inc., at 23 ("The use of contracts permits CMRS providers to seek and obtain interconnection arrangements customized to meet their specific network requirements and business planning needs more easily and efficiently than they could under a tariff regime."); Comments of Vanguard Cellular Systems, Inc., at 21 ("Vanguard's experience confirms the observation in the Notice that negotiation generally results in better-tailored service arrangements than are possible under a tariffed rate structure. Such flexibility will be increasingly vital given the rapid technological developments in the CMRS marketplace.").

17 CTIA filed in strong support of good faith negotiations for establishing LEC - CMRS agreements. *See* Comments of Cellular Telecommunications Industry Assoc., CC Docket No. 94-54.

18 As stated *supra*, the 1996 Act now endorses negotiation. Section 251 obligates incumbent LECs to negotiate in good faith, while Section 252 permits voluntary negotiation of interconnection agreements, regardless of the obligations in Section 251.

19 It should be noted that during the negotiations process, the provisioning of basic interconnection is not delayed while the negotiations are being conducted.

because these arrangements would be offered to new entrants as well as established carriers. Stated simply, good faith negotiations have worked well in the past and GTE urges the Commission to draw upon this past success by continuing this policy of voluntary negotiation for all LEC-CMRS arrangements.

In past negotiations, GTE has supported mutual compensation, but only when the compensation was adequate. Adequate compensation requires that both parties be permitted a means of recovering the costs of interconnection from the users that are responsible for incurring the costs.[20] As the Commission is aware, when the LEC's subscribers place calls to cellular subscribers from the LEC's local calling area,[21] the calls are generally handled as local calls. Since most of GTE's landline subscribers have flat-rated local calling, there is no incremental charge to the wireline customer, and therefore no means of recovering the costs incurred from the cost-causer.[22]

If the state commissions, with support of the CMRS providers and LECs, were to permit LECs to pass on to their subscribers the cost of interconnection that CMRS

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20 *See, e.g.*, Testimony of GTE witness Charles Bailey, Mobile Interconnection Docket No. 940235-TL, Florida Public Service Commission at 11; Direct Testimony of GTE witness Edward Beauvais, Docket No. 94-0346, Hawaiian Public Utility Commission at 15.

21 The term local calling area has very different meanings depending on the service being addressed. For LECs, local calling areas are specifically defined in their tariffs. CMRS providers' local calling areas may vary by service and may even extend beyond the limits of their license area through agreements with other CMRS providers. Calling areas of broadband PCS providers with Major Trading Area licenses could even extend across several states.

22 In a number of states, local telephone rates are either frozen or limited such that any additional costs not part of the original ratemaking will not be recoverable and will thus the shortfall will go directly to the LEC.

providers would charge the LEC, GTE could readily support adopting mutual compensation. But the state commissions have not permitted the LECs to recover the costs from the cost causers.[23] In fact, some state commissions have rejected mutual compensation as inappropriate, and some state legislators have even prevented the LEC from entering into such arrangements.[24] Without allowing recovery from the cost causer, GTE cannot support mutual compensation.

1. Existing Compensation Arrangements

In response to the Commission's request (¶41) for more detailed information about LEC-CMRS interconnection arrangements, GTE includes a comprehensive discussion of its interconnection arrangements in Attachment A. The Attachment includes an overview of basic interconnection building blocks, followed by detailed descriptions of basic Type 1, Type 2B and Type 2A interconnection. In addition optional services, such as Reverse Billing, Wide Area Calling and others are listed.

The NPRM states (at ¶40) that some LECs charge CMRS providers for calls that originate from LEC customers and terminate to cellular customers. With the exception of certain services that the CMRS provider may elect (*e.g.*, customized arrangements, the Reverse Billing Option), the GTE telephone companies, do not charge CMRS

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[23] It would be problematic and clearly unfair if all LEC customers were forced to pay higher local rates to cover the costs generated by the subset of LEC customers calling CMRS provider's subscribers.

[24] Connecticut State Department of Public Utility Control, Docket 95-04-04.